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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,234	07/21/2003	Stephen Ritland	4510-10	7545
22442	7590	01/11/2008		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER COMSTOCK, DAVID C	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 01/11/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/624,234

Applicant(s)

RITLAND, STEPHEN

Examiner

David Comstock

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 26-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 26-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12 December 2007 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 10, 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Caesar (US Pat 2825329).

In regards to claims 1-3, 10, 12-15, Caesar discloses having a device (mounting base) with a securing mechanism (means for securing) (158), a body (150), a first and second aperture (156, one on each side of the body), projection (means for stabilizing) (152) located at the bottom of the body, which is noted to be a pin.

It is acknowledged that functional language is as important as the structural limitations. However, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. (See MPEP 2114). If the functional language is silent in the prior art, then the examiner will determine if the prior art can inherently perform the claimed function. To establish inherency, extrinsic evidence must be presented. In this case, the extrinsic evidence is the structural similarity to the disclosed invention (*In re Schreiber*, 128 F.3d.1473, 44 USPQ2d 1429 (Fed Cir 1997)).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-9 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caesar (US Pat 2825329).

Caesar discloses the claimed invention except for having apertures located on all sides of the body. It is noted that Caesar discloses having apertures on the top and bottom surfaces, and not on the side. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have apertures located on

all sides of the body, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Claims 11, 20 and 26-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caesar (US Pat 2825329) in view of Maruyama et al. (US Pat 5487741).

Caesar discloses the claimed invention except for having flanges in the apertures. Flanges are commonly used to provide extra strength in holding objects. Maruyama disclose having apertures with flanges (23a, 25a). It would have been obvious to one skilled in the art at the time the invention was made to construct the invention of Caesar, including flanges in view of Maruyama in order to provide greater strength of holding between the screw and body.

### ***Response to Arguments***

Applicant's arguments filed 20 September 2006 have been fully considered but are not persuasive.

In response to Applicant's amendment, it is noted that in order to limit the claim to only one screw, the closed preamble transition "consisting of," or the like, must be employed. As the claim is currently drafted with the open transition "comprising." The prior art must show at least one screw but may show additional structure, e.g., another screw. It is further noted that an "attachment point" may simply be a location at which an image tracker is capable of being attached, e.g. by hooking one of the navigation stars on an edge of the device; it is noted that the image tracker is not recited in the

claims and the body must merely be capable of performing the intended use implied by the "attachment point." Finally, it is noted that a screw, for example, can act as a mounting post.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Comstock whose telephone number is (571) 272-4710. Please leave a detailed voice message if examiner is unavailable. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. Comstock



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SUPERVISORY PATENT EXAMINER